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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,181	05/01/2001	Richard E. Hill III	22963-1290	5103

7590

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EXAMINER

COHEN, LEE S

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,181

Applicant(s)

HILL ET AL.

Examiner

Lee S. Cohen

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11, 13-21, 23-31 and 33-50 is/are pending in the application.
- 4a) Of the above claim(s) 2-11, 13-21 and 23-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 33-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3739

DETAILED ACTION

Election/Restrictions

Claims 2-11, 13-21, and 23-31 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 33-50 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by either Koblisch (2001/0020174). Applicant's attention is directed to Figures 17-22, paragraph [0065], and paragraphs [0093] – [0103].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-36 and 38-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al (6,325,797) in view of Jaraczewski et al (WO 95/13111). Applicant's attention is

Art Unit: 3739

directed to Figures 1-7 of Stewart et al, particularly Figure 6. The use of a Nitinol to form the coil is disclosed at column 6, lines 39-55. The reference fails to disclose a central core member to effect the coil and a guide catheter. These features are clearly disclosed by Jaraczewski et al as shown in Figures 3-7. Accordingly, the use of such structure in Stewart et al to effect the helical shape and deployment would have been obvious to the skilled artisan since it relates to a mere design equivalent to accomplish a similar result. Particular dimensions not specifically disclosed by Stewart et al would have been obvious since the helical coil of Stewart et al is being employed for a similar use and would necessarily have comparable size limitations.

Claims 33-43 and 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins et al (2002/0004631) in view of Jaraczewski et al (WO 95/13111). Applicant's attention is directed to Figure 16 of Jenkins et al. The use of a Nitinol to form the coil is disclosed at paragraph [0083]. The reference fails to disclose a central core member to effect the coil. These features are clearly disclosed by Jaraczewski et al as shown in Figures 3-7. Accordingly, the use of such structure in Jenkins et al to effect the helical shape would have been obvious to the skilled artisan since it relates to a mere design equivalent to accomplish a similar result. Particular dimensions not specifically disclosed by Jenkins et al would have been obvious since the helical coil of Jenkins et al is being employed for a similar use and would necessarily have comparable size limitations.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al (6,325,797) in view of Jaraczewski et al (WO 95/13111) as applied supra, and further in view of Jenkins et al (2002/0004631). Stewart et al fails to disclose temperature sensors between the

Art Unit: 3739

electrodes. Such a feature is disclosed by Jenkins et al at paragraph [0115]. The use of the same in Stewart et al would have been obvious given this teaching to monitor the ablation process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 703-308-2998. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 703-308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Lee S. Cohen
Primary Examiner
Art Unit 3739

LSC
October 30, 2003